

REMARKS

Applicant notes that the Oath/Declaration is defective. The originally filed declaration contained a clerical error in claiming continuation-in-part status from the provisional application under 35 U.S.C. §120 instead of claiming the benefit of the provisional application under 35 U.S.C. §119(e). A supplemental declaration under 37 C.F.R. §1.67 is submitted herewith.

Claims 3-5, 7 and 10-12 have been canceled.

Claims 13 and 14 have been canceled as being drawn to a non-elected invention.

New claim 15 is presented for prosecution.

Claims 1, 2, 6, 8, 9 and 15 remain pending in the application. Of these, claim 1 is currently amended.

Claims 1, 2 and 6 are rejected under 35 U.S.C. §103(a) based on Wagner U.S. 5,108,446 (Wagner '446). Claim 1 has been amended to overcome this rejection. Wagner '446 discloses a hip joint prosthesis in which a base (outer cup 1) includes a stem (dowel 3) having a series of radially expandable segments 18. A cap (inner cup 2) includes a pin (body 7). Rotation of inner cup 2 within the outer cup 1 results in corresponding rotation of the body 7 within the dowel 3 (see col. 2, lines 30-33). The segments 18 of the dowel 3 radially expand in response to rotation of the body 7 within the dowel 3 (see col. 2. lines 34-38). As defined by the amended claim 1, the cited reference does not teach or suggest an implant in which engagement of pin with the interior lumens of respective stems concurrently expand the respective exteriors of the stems without rotation of the pins within the stems. Dependent claims 2 and 6 further define the subject matter of independent claim 1. Furthermore, as defined by new independent claim 15, Wagner '446 does not teach or suggest an implant in which a base includes a plurality of stems arranged in a triangular configuration and a cap includes a plurality pins arranged in a triangular configuration complementary to the arrangement of the stems.

The Examiner indicates that claims 8 and 9 are allowed.

Reconsideration in view of the foregoing amendments and remarks and allowance of claims 1, 2, 6, 8, 9 and 15 is respectfully requested.

Respectfully Submitted,

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Incurred/17584-CIP/040728 AMENDMENT B

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